

1 [Planning Code -- Dwelling Units]

2 **Amending the San Francisco Planning Code by amending Section 123 to exempt floor**
3 **area devoted to residential use in calculating floor area ratio limits for TDR transfer in**
4 **certain C-3-O and C-3-O(SD) districts; amending Section 124 to eliminate floor area**
5 **ratio limits for residential construction in certain C-2 and C-3 zoning districts, except**
6 **on Preservation lots; amending Section 128 to eliminate certain restrictions on the**
7 **transfer of development rights in C-3 districts, to require the Zoning Administrator to**
8 **keep an inventory of TDR, and authorizing the Planning Department to study how this**
9 **legislation affects housing in C-3 zoning areas and the market for TDRs; amending**
10 **Sections 215 and 216 to increase the maximum density ratio for dwelling units and**
11 **group housing allowed in certain C and M districts; amending Section 309 to allow**
12 **modification of the project in the permit review process for an effect on the integrity of**
13 **Significant or Contributory buildings; amending Section 1112.2 to provide that an**
14 **application for a demolition permit on a lot including a Contributory building will be**
15 **treated as a Significant building if the gross floor area will exceed the base floor area**
16 **ratio limit of the site without the transfer of TDR; and making findings including a**
17 **determination of consistency with the General Plan and the priority policies of Planning**
18 **Code Section 101.1(b).**

19 Note: Additions are underlined; deletions are in ((double parentheses)).

20 Be it ordained by the People of the City and County of San Francisco:

21 Section 1: FINDINGS.

22 1. The population of California has grown by more than 11 percent since 1990.
23 During the next twenty years, California is expected to add more than five million new jobs to
24 its economy. This economic growth is expected to be accompanied by the addition of more
25 than 20 million new residents, a population increase equal to that experienced during the

1 boom years of the 1950's, 1960's and 1970's combined. As California grows, the State
2 Legislature and local governments will need to determine where to locate additional housing
3 in a fiscally and environmentally sustainable manner consistent with sound urban planning
4 practices.

5 2. There is a regional need to encourage new housing in existing cities, such as
6 San Francisco, to accommodate the additional population, while protecting the region's
7 greenbelt and reducing over-dependence on the private automobile for commuting.

8 3. San Francisco already is experiencing a severe shortage of both affordable and
9 market-rate housing, resulting in a sharp increase in rents and home prices. Rental vacancy
10 rates are at an all time low.

11 4. The production of new affordable and market-rate housing in San Francisco has
12 fallen far short of the level needed to meet housing demand. Between 1990 and 1999, the
13 population of San Francisco increased by approximately 66,000 persons, from 724,000 to
14 790,000, yet only 8,500 new housing units were built. In order to maintain the 1990 ratio of
15 housing units to population, approximately 20,000 additional housing units would have to have
16 been constructed during this period. The Association of Bay Area Governments forecasts that
17 San Francisco's population will reach approximately 810,000 by 2010, further increasing the
18 need for new housing.

19 5. Obstacles to increased housing production include certain unintended and
20 unnecessary impediments to residential development contained in the City's Planning Code.
21 These impediments include unduly restrictive density limits in certain C and M zoning districts.

22 6. Without certain amendments to the Planning Code to remove these
23 unnecessary impediments to residential development, the supply of new affordable and
24 market-rate housing will continue to fall short of that needed to meet further demand.

25

1 8. Amendments to the Planning Code are among the tools available to the City to
2 encourage new housing production in a manner that enhances existing neighborhoods and
3 creates new residential and mixed-use neighborhoods.

4 9. The amendments made herein are consistent with the General Plan and the
5 eight priority policies of Section 101.1(b) of the City Planning Code as found by the Planning
6 Commission in Resolution No. _____, dated _____. This Resolution can be found in the Clerk
7 of the Board's File No. _____, and is herein incorporated by reference.

8 10. The public necessity, convenience, and general welfare require these
9 amendments.

10 Section 2. The San Francisco Planning Code is hereby amended by amending
11 Sections 123 and 124 to read as follows:

12 SEC. 123. MAXIMUM FLOOR AREA RATIO.

13 (a) The limits upon the floor area ratio of buildings, as defined by this Code, shall be
14 as stated in this Section and Sections 124 through 128. The maximum floor area ratio for any
15 building or development shall be equal to the sum of the basic floor area ratio for the district,
16 as set forth in Section 124, plus any premiums and floor area transfers which are applicable to
17 such building or development under Sections 125, 127 and 128, and as restricted by the
18 provisions of Sections 123(c) and (d) and 124(b) and (j).

19 (b) No building or structure or part thereof shall be permitted to exceed, except as
20 stated in Sections 172 and 188 of this Code, the floor area ratio limits herein set forth for the
21 district in which it is located.

22 (c) The amount of TDR that may be transferred to a development lot, as allowed by
23 Section 128, is limited as follows:

1 (1) The gross floor area of a structure on a lot in the C-3-O and C-3-O (SD) Districts
 2 (except for gross floor area devoted to dwellings or to other residential uses) may not exceed a floor
 3 area ratio of 18 to 1;

4 (2) The gross floor area of a structure on a lot in the C-3-R, C-3-G and C-3-S
 5 Districts may not exceed a floor area ratio that is 1-½ times the basic floor area limit for the
 6 district as provided in Section 124.

7 (d) The gross floor area of a structure on a lot on which is or has been located a
 8 Significant or Contributory Building may not exceed the basic floor area ratio limits stated in
 9 Section 124 except as provided in Section 128(c)(2).

10 SEC. 124. BASIC FLOOR AREA RATIO.

11 (a) Except as provided in Subsections (b), (c) and (e) of this Section, the basic floor
 12 area ratio limits specified in the following table shall apply to each building or development in
 13 the districts indicated.

14

| District | Basic Floor Area Ratio Limit |
|---|------------------------------|
| RH-1(D), RH-1, RH-1(S), RH-2, RH-3, RM-1, RM-2 | 1.8 to 1 |
| RM-3 | 3.6 to 1 |
| RM-4 | 4.8 to 1 |
| RC-1, RC-2 | 1.8 to 1 |
| RC-3 | 3.6 to 1 |
| RC-4 | 4.8 to 1 |
| RED | 1.0 to 1 |
| RSD, SPD | 1.8 to 1 |
| NC-1 | 1.8 to 1 |
| NC-S | |
| Inner Clement | |
| Outer Clement | |
| Haight | |
| North Beach | |

25

| District | Basic Floor Area Ratio Limit |
|--|------------------------------|
| Sacramento | |
| 24 th Street-Noe Valley | |
| West Portal | |
| NC-2 | 2.5 to 1 |
| Broadway | |
| Upper Fillmore | |
| Polk | |
| Valencia | |
| 24 th Street-Mission | |
| Castro | 3.0 to 1 |
| Hayes-Gough | |
| Upper Market | |
| Union | 3.6 to 1 |
| NC-3 | |
| Chinatown R/NC | 1.0 to 1 |
| Chinatown VR | 2.0 to 1 |
| Chinatown CB | 2.8 to 1 |
| C-1, C-2 | 3.6 to 1 |
| C-2-C | 4.8 to 1 |
| C-3-C | 6.0 to 1 |
| C-3-O | 9.0 to 1 |
| C-3-R | 6.0 to 1 |
| C-3-G | 6.0 to 1 |
| C-3-S | 5.0 to 1 |
| C-3-O (SD) | 6.0 to 1 |
| C-M | 9.0 to 1 |
| M-1, M-2 | 5.0 to 1 |
| SLR, SLI | 2.5 to 1 |
| SSO and in a 40 or 50 foot height district | 3.0 to 1 |
| SSO and in a 65 or 80 foot height district | 4.0 to 1 |
| SSO and in a 130 foot height district | 4.5 to 1 |

23

24 (b) In R, NC, C-2, C-3-G, C-3-R, C-3-S Districts, the C-3-O District north of Mission

25 Street and Mixed Use Districts, the above floor area ratio limits shall not apply to dwellings or

1 to other residential uses, except that on Preservation Lots as defined in Section 128(a)(3) the above
2 floor area ratio limits shall apply to all uses, including dwellings and other residential uses. In NC
3 Districts, the above floor area ratio limits shall also not apply to nonaccessory off-street
4 parking. In Chinatown Mixed Use Districts, the above floor area ratio limits shall not apply to
5 institutions, and mezzanine commercial space shall not be calculated as part of the floor area
6 ratio.

7 (c) In a C-2 District the basic floor area ratio limit shall be 4.8 to 1 for a lot which is
8 nearer to an RM-4 or RC-4 District than to any other R District, and 10.0 to 1 for a lot which is
9 nearer to a C-3 District than to any R District. The distance to the nearest R District or C-3
10 District shall be measured from the midpoint of the front line, or from a point directly across
11 the street therefrom, whichever gives the greatest ratio.

12 (d) In the Van Ness Special Use District, as described in Section 243 of this Code,
13 the basic floor area ratio limit shall be 7.0 to 1 where the height limit is 130 feet and 4.5 to 1
14 where the height limit is 80 feet.

15 (e) In the Waterfront Special Use Districts, as described in Sections 240 through
16 240.3 of this Code, the basic floor area ratio limit in any C District shall be 5.0 to 1.

17 ((f) For buildings in C-3-G and C-3-S Districts other than those designated as
18 Significant or Contributory pursuant to Article 11 of this Code, additional square footage above
19 that permitted by the base floor area ratio limits set forth above may be approved for
20 construction of dwellings on the site of the building affordable for 20 years to households
21 whose incomes are within 150 percent of the median income as defined herein, in accordance
22 with the conditional use procedures and criteria as provided in Section 303 of this Code.

23 (1) Any dwelling approved for construction under this provision shall be deemed a
24 “designated unit” as defined below. Prior to the issuance by the Director of the Department of
25 Building Inspection (“Director of Building Inspection”) of a site or building permit to construct

1 any designated unit subject to this Section, the permit applicant shall notify the Director of
2 Planning and the Director of Property in writing whether the unit will be an owned or rental unit
3 as defined in Section 313(a) of this Code.

4 (2) Within 60 days after the issuance by the Director of Building Inspection of a site
5 or building permit for construction of any unit intended to be an owned unit, the Director of
6 Planning shall notify the City Engineer in writing identifying the intended owned unit, and the
7 Director of Property shall appraise the fair market value of such unit as of the date of the
8 appraisal, applying accepted valuation methods, and deliver a written appraisal of the unit to
9 the Director of Planning and the permit applicant. The permit applicant shall supply all
10 information to the Director of Property necessary to appraise the unit, including all plans and
11 specifications.

12 (3) Each designated unit shall be subject to the provisions of Section 313(i) of this
13 Code. For purposes of this Subsection and the application of Section 313(i) of this Code to
14 designated units constructed pursuant to this Subsection, the definitions set forth in Section
15 313(a) shall apply, with the exception of the following definitions, which shall supersede the
16 definitions of the terms set forth in Section 313(a):

17 (A) "Base price" shall mean 3.25 times the median income for a family of four
18 persons for the County of San Francisco as set forth in California Administrative Code Section
19 6932 on the date on which a housing unit is sold.

20 (B) "Base rent" shall mean .45 times the median income for the County of San
21 Francisco as set forth in California Administrative Code Section 6932 for a family of a size
22 equivalent to the number of persons residing in a household renting a designated unit.

23 (C) "Designated unit" shall mean a housing unit identified and reported to the
24 Director by the sponsor of an office development project subject to this Subsection as a unit
25 that shall be affordable to households of low or moderate income for 20 years.

1 (D) "Household of low or moderate income" shall mean a household composed of
2 one or more persons with a combined annual net income for all adult members which does
3 not exceed 150 percent of the qualifying limit for a median income family of a size equivalent
4 to the number of persons residing in such household, as set forth for the County of San
5 Francisco in California Administrative Code Section 6932.

6 (E) "Sponsor" shall mean an applicant seeking approval for construction of a project
7 subject to this Subsection and such applicants' successors and assigns.))

8 ((g)) (f) The allowable gross floor area on a lot which is the site of an unlawfully
9 demolished building that is governed by the provisions of Article 11 shall be the gross floor
10 area of the demolished building for the period of time set forth in, and in accordance with the
11 provisions of, Section 1114 of this Code, but not to exceed the basic floor area permitted by
12 this Section.

13 ((h)) (g) In calculating the permitted floor area of a new structure in a C-3 District,
14 the lot on which an existing structure is located may not be included unless the existing
15 structure and the new structure are made part of a single development complex, the existing
16 structure is or is made architecturally compatible with the new structure, and, if the existing
17 structure is in a Conservation District, the existing structure meets or is made to meet the
18 standards of Section 1109(c), and the existing structure meets or is reinforced to meet the
19 standards for seismic loads and forces of the 1975 Building Code. Determinations under this
20 Paragraph shall be made in accordance with the provisions of Section 309.

21 ((i)) (h) In calculating allowable gross floor area on a preservation lot from which
22 any TDRs have been transferred pursuant to Section 128, the amount allowed herein shall be
23 decreased by the amount of gross floor area transferred.

1 ((j)) (i) Within any RSD, SPD, SLR, SLI or SSO District, live/work units
2 constructed above the floor area ratio limit pursuant to Section 102.9(b)(19) of this Code shall
3 be subject to the following conditions and standards:

4 (1) Considering all dwelling units and all live/work units on the lot, existing and to be
5 constructed, there shall be no more than one live/work unit and/or dwelling unit per 200
6 square feet of lot area, except that, for projects in the RSD District which will exceed 40 feet in
7 height, and therefore are required to obtain conditional use approval, the allowable density for
8 dwelling units and live/work units shall be established as part of the conditional use
9 determination; and

10 (2) The parking requirement for live/work units subject to this subsection shall be
11 equal to that required for dwelling units within the subject district.

12 Section 3: The San Francisco Planning Code is hereby amended by amending Section
13 128 to read:

14 SEC. 128. TRANSFER OF DEVELOPMENT RIGHTS IN C-3 DISTRICTS.

15 (a) Definitions.

16 (1) “Development Lot.” A lot to which TDR may be transferred to increase the
17 allowable gross floor area of development thereon beyond that otherwise permitted by Section
18 124.

19 (2) “Owner of Record.” The owner or owners of record in fee.

20 (3) “Preservation Lot.” A parcel of land on which is either (i) a Significant or
21 Contributory building (as designated pursuant to Article 11); or (ii) a Category V Building that
22 has complied with the eligibility requirement for transfer of TDR as set forth in Section
23 1109(c); or (iii) a structure designated a landmark pursuant to Article 10 of this Code. The
24 boundaries of the Preservation Lot shall be the boundaries of the Assessor's lot on which the
25

1 building is located at the time the ordinance or, as to Section 1109(c), resolution, making the
2 designation is adopted, unless boundaries are otherwise specified in the ordinance.

3 (4) "Transfer Lot." A Preservation Lot located in a C-3 District from which TDR may
4 be transferred. A lot zoned P (public) may in no event be a Transfer Lot.

5 (5) "Transferable Development Rights (TDR)." Units of gross floor area which may
6 be transferred, pursuant to the provisions of this Section and Article 11 of this Code, from a
7 Transfer Lot to increase the allowable gross floor area of a development on a Development
8 Lot.

9 (6) "Unit of TDR." One unit of TDR is one square foot of gross floor area.

10 (b) Amount of TDR Available for Transfer. The maximum TDR available for transfer
11 from a Transfer Lot consists of the difference between (aa) the allowable gross floor area
12 permitted on the Transfer Lot by Section 124 and (bb) the gross floor area of the development
13 located on the Transfer Lot.

14 (c) Eligibility of Development Lots and Limitation on Use of TDR on Development
15 Lots. TDR may be used to increase the allowable gross floor area of a development on a
16 Development Lot if the following requirements and restrictions are satisfied:

17 (1) The Transfer Lot and the Development Lot are located in a C-3 Zoning District.

18 ~~(i) The Transfer Lot and the Development Lot are located in the same C-3 Zoning District, or~~
19 ~~(ii) the Transfer Lot is located in a C-3-O, or C-3-R District and the Development Lot is located~~
20 ~~in the C-3-O(SD) Special Development District; or (iii) the Transfer Lot is a Preservation Lot~~
21 ~~that contains a Significant building and is located in the Extended Preservation District or a C-~~
22 ~~3-G or C-3-S District and the Development Lot is located in the C-3-O(SD) Special District.~~

23 (2) TDR may not be transferred for use on any lot on which is or has been located a
24 Significant or Contributory building; provided that this restriction shall not apply if the
25 designation of a building is changed to Unrated; nor shall it apply if the City Planning

1 Commission finds that the additional space resulting from the transfer of TDR is essential to
2 make economically feasible the reinforcement of a Significant or Contributory building to meet
3 the standards for seismic loads and forces of the 1975 Building Code, in which case TDR may
4 be transferred for that purpose subject to the limitations of this Section and Article 11,
5 including Section 1111.6. Any alteration shall be governed by the requirements of Sections
6 1111 to 1111.6.

7 (3) Notwithstanding any other provision of this Section, development on a Development
8 Lot is limited by the provisions of this Code, other than those on floor area ratio, governing the
9 approval of projects, including the requirements relating to height, bulk, setback, sunlight
10 access, and separation between towers, and any limitations imposed pursuant to Section 309
11 review applicable to the Development Lot. The total allowable gross floor area of a
12 development on a Development Lot may not exceed the limitation imposed by Section 123(c).

13 (d) Effect of Transfer of TDR.

14 (1) Transfer of TDR from a Transfer Lot permanently reduces the development
15 potential of the Transfer Lot by the amount of the TDR transferred. In addition, transfer of TDR
16 from a Preservation Lot containing a Contributory building or a landmark designated pursuant
17 to Article 10 causes such building to become subject to the same restrictions on demolition
18 and alteration, and the same penalties and enforcement remedies, that are applicable to
19 Significant buildings Category I, as provided in Article 11.

20 (e) Procedure for Determining TDR Eligibility.

21 (1) In order to obtain a determination of whether a lot is a Transfer Lot and, if it is, of
22 the amount of TDR available for transfer, the owner of record of the lot may file an application
23 with the Zoning Administrator for a Statement of Eligibility. The application for a Statement of
24 Eligibility shall contain or be accompanied by plans and drawings and other information which
25 the Zoning Administrator determines is necessary in order to determine whether a Statement

1 of Eligibility can be issued. Any person who applies for a Statement of Eligibility prior to
2 expiration of the time for request of reconsideration of designation authorized in Section 1105
3 shall submit in writing a waiver of the right to seek such reconsideration.

4 (2) The Zoning Administrator shall, upon the filing of an application for a Statement
5 of Eligibility and the submission of all required information, issue either a proposed Statement
6 of Eligibility or a written determination that no TDR are available for transfer and shall mail that
7 document to the applicant and to any other person who has filed with the Zoning Administrator
8 a written request for a copy. Any appeal of the proposed Statement of Eligibility or
9 determination of noneligibility shall be filed with the Board of Permit Appeals within 20 days of
10 the date of issuance of the document. If not appealed, the proposed Statement of Eligibility or
11 the determination of noneligibility shall become final on the 21st day after the date of
12 issuance. The Statement of Eligibility shall contain at least the following information: (i) the
13 name of the owner of record of the Transfer Lot; (ii) the address, legal description and
14 Assessor's Block and Lot of the Transfer Lot; (iii) the C-3 use district within which the Transfer
15 Lot is located; (iv) whether the Transfer Lot is a Preservation Lot or Development Lot; (v) if a
16 Preservation Lot, whether the Transfer Lot contains a Significant or Contributory building, a
17 Category V building, or an Article 10 landmark; (vi) the amount of TDR available for transfer;
18 and (vii) the date of issuance.

19 (3) Once the proposed Statement of Eligibility becomes final, whether through lack
20 of appeal or after appeal, the Zoning Administrator shall record the Statement of Eligibility in
21 the Office of the County Recorder. The County Recorder shall be instructed to mail the
22 original of the recorded document to the owner of record of the Transfer Lot and, if a copy of
23 the document is presented at the time of the recordation, shall conform the copy and mail it to
24 the Zoning Administrator.

25 (f) Cancellation of Eligibility.

1 (1) If reasonable grounds should at any time exist for determining that a building on
2 a Preservation Lot may have been altered or demolished in violation of Articles 10 or 11,
3 including Sections 1110 and 1112 thereof, the Zoning Administrator may issue and record
4 with the County Recorder a Notice of Suspension of Eligibility for the affected lot and, in cases
5 of demolition of a Significant or Contributory building, a notice that the restriction on the floor
6 area ratio of a replacement building, pursuant to Section 1114, may be applicable and shall
7 mail a copy of such notice to the owner of record of the lot. The notice shall provide that the
8 property owner shall have 20 days from the date of the notice in which to request a hearing
9 before the Zoning Administrator in order to dispute this initial determination. If no hearing is
10 requested, the initial determination of the Zoning Administrator is deemed final on the twenty-
11 first day after the date of the notice, unless the Zoning Administrator has determined that the
12 initial determination was in error.

13 (2) If a hearing is requested, the Zoning Administrator shall notify the property
14 owner of the time and place of hearing, which shall be scheduled within 21 days of the
15 request, shall conduct the hearing, and shall render a written determination within 15 days
16 after the close of the hearing. If the Zoning Administrator shall determine that the initial
17 determination was in error, that officer shall issue and record a Notice of Revocation of
18 Suspension of Eligibility. Any appeal of the determination of the Zoning Administrator shall be
19 filed with the Board of Permit Appeals within 20 days of the date of the written determination
20 following a hearing or, if no hearing has been requested, within 20 days after the initial
21 determination becomes final.

22 (3) If after an appeal to the Board of Permit Appeals it is determined that an
23 unlawful alteration or demolition has occurred, or if no appeal is taken of the determination by
24 the Zoning Administrator of such a violation, the Zoning Administrator shall record in the
25 Office of the County Recorder a Notice of Cancellation of Eligibility for the lot, and shall mail to

1 the property owner a conformed copy of the recorded Notice. In the case of demolition of a
2 Significant or Contributory Building, the Zoning Administrator shall record a Notice of Special
3 Restriction noting the restriction on the floor area ratio of the Preservation Lot pursuant to the
4 provisions of Section 1114, and shall mail to the owner of record a certified copy of the Notice.
5 If after an appeal to the Board of Permit Appeals it is determined that no unlawful alteration or
6 demolition has occurred, the Zoning Administrator shall issue and record a Notice of
7 Revocation of Suspension of Eligibility and, if applicable, a Notice of Revocation of the Notice
8 of Special Restriction pursuant to Section 1114, and shall mail conformed copies of the
9 recorded notices to the owner of record.

10 (4) No notice recorded under this Section 128(f) shall affect the validity of TDR that
11 have been transferred from the affected Transfer Lot in compliance with the provisions of this
12 Section prior to the date of recordation of such notice, whether or not such TDR have been
13 used.

14 (g) Procedure for Transfer of TDR.

15 (1) TDR from a single Transfer Lot may be transferred as a group to a single
16 transferee or in separate increments to several transferees. TDR may be transferred either
17 directly from the original owner of the TDR to the owner of a Development Lot or to persons,
18 firms or entities who acquire the TDR from the original owner of the TDR and hold them for
19 subsequent transfer to other persons, firms, entities or to the owners of a Development Lot or
20 Lots.

21 (2) When TDR are transferred, they shall be identified in each Certificate of Transfer
22 by a number. A single unit of TDR transferred from a Transfer Lot shall be identified by the
23 number "1." Multiple units of TDR transferred as a group for the first time from a Transfer Lot
24 shall be numbered consecutively from "1" through the number of units transferred. If a fraction
25 of a unit of TDR is transferred, it shall retain its numerical identification. (For example, if 5,000-

1 ½TDR are transferred in the initial transfer from the Transfer Lot, they would be numbered "1
2 through 5,000 and one-half of 5,001.") TDR subsequently transferred from the Transfer Lot
3 shall be identified by numbers taken in sequence following the last number previously
4 transferred. (For example if the first units of gross floor area transferred from a Transfer Lot
5 are numbered 1 through 10,000, the next unit transferred would be number 10,001.) If multiple
6 units transferred from a Transfer Lot are subsequently transferred separately in portions, the
7 seller shall identify the TDR sold by numbers which correspond to the numbers by which they
8 were identified at the time of their transfer from the Transfer Lot. (For example, TDR
9 numbered 1 through 10,000 when transferred separately from the Transfer Lot in two equal
10 portions would be identified in the two Certificates of Transfer as numbers 1 through 5,000
11 and 5,001 through 10,000.) Once assigned numbers, TDR retain such numbers for the
12 purpose of identification through the process of transferring and using TDR. The phrase
13 "numerical identification," as used in this section, shall mean the identification of TDR by
14 numbers as described in this Subsection.

15 (3) Transfer of TDR from the Transfer Lot shall not be valid unless (i) a Statement of
16 Eligibility has been recorded in the Office of the County Recorder prior to the date of
17 recordation of the Certificate of Transfer evidencing such transfer and (ii) a Notice of
18 Suspension of Eligibility or Notice of Cancellation of Eligibility has not been recorded prior to
19 such transfer or, if recorded, has thereafter been withdrawn by an appropriate recorded Notice
20 of Revocation or a new Statement of Eligibility has been thereafter recorded.

21 (4) Transfer of TDR, whether by initial transfer from a Transfer Lot or by a
22 subsequent transfer, shall not be valid unless a Certificate of Transfer evidencing such
23 transfer has been prepared and recorded. The Zoning Administrator shall prepare a form of
24 Certificate of Transfer and all transfers shall be evidenced by documents that are substantially
25

1 the same as the Certificate of Transfer form prepared by the Zoning Administrator, which form
2 shall contain at least the following:

3 (i) For transfers from the Transfer Lot only:

4 (aa) Execution and acknowledgment by the original owner of TDR as the
5 transferor(s) of the TDR; and

6 (bb) Execution and acknowledgment by the Zoning Administrator; and

7 (cc) A notice, prominently placed and in all capital letters, preceded by the
8 underlined heading "Notice of Restriction," stating that the transfer of TDR from the Transfer
9 Lot permanently reduces the development potential of the Transfer Lot by the amount of TDR
10 transferred, with reference to the provisions of this Section.

11 (ii) For all transfers:

12 (aa) The address, legal description, Assessor's Block and Lot, and C-3 use district of
13 the Transfer Lot from which the TDR originates; and

14 (bb) The amount of TDR transferred; and

15 (cc) Numerical identification of the TDR being transferred; and

16 (dd) The names and mailing addresses of the transferors and transferees of the
17 TDR; and

18 (ee) Execution and acknowledgment by the transferors and transferees of the TDR;
19 and

20 (ff) A reference to the Statement of Eligibility, including its recorded instrument
21 number and date of recordation, and a recital of all previous transfers of the TDR, including
22 the names of the transferors and transferees involved in each transfer and the recorded
23 instrument number and date of recordation of each Certificate of Transfer involving the TDR,
24 including the transfer from the Transfer Lot which generated the TDR.

25

1 (5) When a Certificate of Transfer for the transfer of TDR from a Transfer Lot is
2 presented to the Zoning Administrator for execution, that officer shall not execute the
3 document if a transfer of the TDR would be prohibited by any provision of this Section or any
4 other provision of this Code. The Zoning Administrator shall, within five business days from
5 the date that the Certificate of Transfer is submitted for execution, either execute the
6 Certificate of Transfer or issue a written determination of the grounds requiring a refusal to
7 execute the Certificate.

8 (6) Each duly executed and acknowledged Certificate of Transfer containing the
9 information required herein shall be presented for recordation in the Office of the County
10 Recorder and shall be recorded by the County Recorder. The County Recorder shall be
11 instructed to mail the original Certificate of Transfer to the person and address designated
12 thereon and shall be given a copy of the Certificate of Transfer and instructed to conform the
13 copy and mail it to the Zoning Administrator.

14 (h) Certification of Transfer of TDR for a Project on a Development Lot.

15 (1) When the use of TDR is necessary for the approval of a building permit for a
16 project on a Development Lot, the Superintendent of the Bureau of Building Inspection shall
17 not approve issuance of the permit unless the Zoning Administrator has issued a written
18 certification that the owner of the Development Lot owns the required number of TDR. When
19 the transfer of TDR is necessary for the approval of a site permit for a project on a
20 Development Lot, the Zoning Administrator shall impose as a condition of approval of the site
21 permit the requirement that the Superintendent of the Bureau of Building Inspection shall not
22 issue the first addendum to the site permit unless the Zoning Administrator has issued a
23 written certification that the owner of the Development Lot owns the required number of TDR.

24 (2) In order to obtain certification as required in Section 128(h)(1), the permit
25 applicant shall present to the Zoning Administrator:

1 (i) Information necessary to enable the Zoning Administrator to prepare the Notice
2 of Use of TDR, which information shall be at least the following:

3 (aa) The address, legal description, Assessor's Block and Lot, and zoning
4 classification of the Development Lot;

5 (bb) The name and address of the owner of record of the Development Lot;

6 (cc) Amount and numerical identification of the TDR being used;

7 (dd) A certified copy of each Certificate of Transfer evidencing transfer to the owner
8 of the Development Lot of the TDR being used; and

9 (ii) A report from a title insurance company showing the holder of record of the TDR
10 to be used, all Certificates of Transfer of the TDR, and all other matters of record affecting
11 such TDR. In addition to showing all such information, the report shall guarantee that the
12 report is accurate and complete and the report shall provide that in the event that its
13 guarantee or any information shown in the report is incorrect, the title company shall be liable
14 to the City for the fair market value of the TDR at the time of the report. The liability amount
15 shall be not less than \$10,000 and no more than \$1,000,000, the appropriate amount to be
16 determined by the Zoning Administrator based on the number of TDR being used.

17 (iii) An agreement whereby the owner of the Development Lot shall indemnify the City
18 against any and all loss, cost, harm or damage, including attorneys' fees, arising out of or
19 related in any way to the assertion of any adverse claim to the TDR, including any loss, cost,
20 harm or damage occasioned by the passive negligence of the City and excepting only that
21 caused by the City's sole and active negligence. The indemnity agreement shall be secured
22 by a first deed of trust on the Development Lot, or other security satisfactory to the
23 Department of City Planning and the City Attorney.

24 (3) If the Zoning Administrator determines that the project applicant has complied
25 with the provisions of Subsection (h)(2) and all other applicable provisions of this Section, and

1 that the applicant is the owner of the TDR, that officer shall transmit to the Superintendent of
2 the Bureau of Building Inspection, with a copy to the project applicant, written certification that
3 the owner of the Development Lot owns the TDR. Prior to transmitting such certification, the
4 Zoning Administrator shall prepare a document entitled Notice of Use of TDR stating that the
5 TDR have been used and may not be further transferred, shall obtain the execution and
6 acknowledgment on the Notice of the owner of record of the Development Lot, shall execute
7 and acknowledge the Notice, shall record it in the Office of the County Recorder, and shall
8 mail to the owner of record of the Development Lot a conformed copy of the recorded Notice.
9 If the Zoning Administrator determines that the project applicant is not the owner of the TDR,
10 or has not complied with all applicable provisions of this Section, that determination shall be
11 set forth in writing along with the reasons therefor. The Zoning Administrator shall either
12 transmit certification or provide a written determination that certification is inappropriate within
13 10 business days after the receipt of all information required pursuant to Subsection (h)(2).

14 (i) Cancellation of Notice of Use; Transfer from Development Lot.

15 (1) The owner of a Development Lot for which a Notice of Use of TDR has been
16 recorded may apply for a Cancellation of Notice of Use if (i) the building permit or site permit
17 for which the Notice of Use was issued expires or was revoked or cancelled prior to
18 completion of the work for which such permit was issued and the work may not be carried out;
19 or (ii) any administrative or court decision is issued or any ordinance or initiative or law is
20 adopted which does not allow the applicant to make use of the permit; or (iii) a portion or all of
21 such TDR are not used.

22 (2) If the Zoning Administrator determines that the TDR have not been and will not
23 be used on the Development Lot based on the reasons set forth in subsection (i)(1), the
24 Zoning Administrator shall prepare the Cancellation of Notice of Use of TDR. If only a portion
25 of the TDR which had been acquired are not being used, the applicant may identify which

1 TDR will not be used and the Cancellation of Notice of Use of TDR shall apply only to those
2 TDR. The Zoning Administrator shall obtain on the Cancellation of Notice of Use of TDR the
3 signature and acknowledgment of the owner of record of the Development Lot as to which the
4 Notice of Use of TDR was recorded, shall execute and acknowledge the document, and shall
5 record it in the office of the County Recorder.

6 (3) Once a Cancellation of Notice of Use of TDR has been recorded, the owner of
7 the Development Lot may apply for a Statement of Eligibility in order to transfer the TDR
8 identified in that document. The procedures and requirements set forth in this Section
9 governing the transfer of TDR shall apply to the transfer of TDR from the owner of a
10 Development Lot after a Notice of Use has been filed, except for the provisions of this Section
11 permanently restricting the development potential of a Transfer Lot upon the transfer of TDR;
12 provided, however, that the district or districts to which the TDR may be transferred shall be
13 the same district or districts to which TDR could have been transferred from the Transfer Lot
14 that generated the TDR.

15 (j) Erroneous Notice of Use; Revocation of Permit. If the Zoning Administrator
16 determines that a Notice of Use of TDR was issued or recorded in error, that officer may direct
17 the Superintendent of the Bureau of Building Inspection to suspend any permit issued for a
18 project using such TDR, in which case the Superintendent shall comply with that directive.
19 The Zoning Administrator shall thereafter conduct a noticed hearing in order to determine
20 whether the Notice of Use of TDR was issued or recorded in error. If it is determined that the
21 Notice of Use of TDR was issued or recorded in error, the Superintendent of the Bureau of
22 Building Inspection shall revoke the permit; provided, however, that no permit authorizing
23 such project shall be revoked if the right to proceed thereunder has vested under California
24 law. If it is determined that the Notice of Use of TDR was not issued or recorded in error, the
25 permit shall be reinstated.

1 (k) Effect of Repeal or Amendment. TDR shall convey the rights granted herein only
2 so long and to the extent as authorized by the provisions of this Code. Upon repeal of such
3 legislative authorization, TDR shall thereafter convey no rights or privileges. Upon amendment
4 of such legislative authorization, TDR shall thereafter convey only such rights and privileges
5 as are permitted under the amendment. No Statement of Eligibility shall convey any right to
6 use, transfer or otherwise utilize TDR if the maximum floor area ratio for the Transfer Lot is
7 reduced after the Statement of Eligibility is issued.

8 (l) The Zoning Administrator shall maintain and periodically update an inventory of (1) the
9 approximate amount of TDR eligible for transfer in the C-3 Zoning Districts; (2) the Transfer Lots from
10 which there are TDRs eligible for transfer and the approximate amount of eligible TDR from each
11 Transfer Lot; and (3) the amount of TDR that has already been transferred from specific Transfer Lots
12 to Development Lots.

13 (m) A study is authorized to be undertaken by the Planning Department 5 years after the
14 effective date of this Ordinance No. _____ and every 5 years thereafter to determine whether the
15 exemption from floor area ratio limits for dwelling units and other residential uses in the C-3 Zoning
16 Districts has contributed to the construction of additional dwelling units and other residential uses in
17 the C-3 Zoning Districts and whether and to what extent the exemption impaired the market for TDRs
18 in the C-3 Zoning Districts. In its report, the Planning Department may make recommendations to the
19 Board of Supervisors and Planning Commission regarding any legislative changes to address these
20 issues.

21 Section 4. The San Francisco Planning Code is hereby amended by amending
22 Sections 215 and 216 to read as follows:
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24
25

1 SEC. 215. DWELLINGS.

2

3

| C-1 | C-2 | C-3-O | C-3-R | C-3-G | C-3-S | C-M | M-1 | M-2 |
|-----|-----|-------|-------|-------|-------|-----|-----|-----|
| P | P | P | P | P | P | C | C | C |
| | | ((C)) | ((C)) | ((C)) | ((C)) | | | |
| | | | | | | C | C | C |

4 (a) Dwelling at a density ratio
 5 not exceeding the number of dwelling units
 6 permitted in the nearest R District, with the
 7 distance to such R District measured from
 8 the midpoint of the front lot line or from a
 9 point directly across the street therefrom,
 10 whichever permits the greater density;
 11 provided, that the maximum density ratio in a
 12 C-1, C-2, C-M, M-1 or M-2 District where
 13 dwelling units are not otherwise prohibited
 14 shall in no case be less than for an ((RM-1))
 15 RM-4 District, ((the maximum density ratio in
 16 a C-3 or C-M District shall in no case be less
 17 than for an RM-4 District,)) and ((the)) there
 18 shall be no maximum density ratio in a C-3
 19 District ((shall in no case be less than one
 20 dwelling unit for each 125 square feet of lot
 21 area)). The rules for calculation of dwelling
 22 unit densities set forth in Section 207.1 of
 23 this Code shall apply in C and M Districts,
 24 except that any remaining fraction of ½ or
 25 more of the minimum amount of lot area per
 dwelling unit shall be adjusted upward to the
 next higher whole number of dwelling units.

((b)) Dwelling at a density ratio
 greater than that set forth in Subsection (a),
 to be determined by the City Planning
 Commission pursuant to Section 303(c) of
 this Code.)

((c))(b) Mobile home park for house
 trailers, motor homes, campers and similar
 vehicles or structures used for dwelling
 purposes. Each vehicle or structure in any
 such park shall be regulated by this Code in
 the same manner as a dwelling unit.

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SEC. 216. OTHER HOUSING.

| C-1 | C-2 | C-3-O | C-3-R | C-3-G | C-3-S | C-M | M-1 | M-2 | |
|-----|-----|-------|-------|-------|-------|-----|-----|-----|--|
| P | P | P | P | P | P | P | C | C | (a) Group housing, providing lodging or both meals and lodging, without individual cooking facilities, by prearrangement for a week or more at a time, in a space not defined by this Code as a dwelling unit. Such group housing shall include but not necessarily be limited to a boardinghouse, guesthouse, rooming house, lodging house, residence club, commune, fraternity or sorority house, monastery, nunnery, convent or ashram. It shall also include group housing affiliated with and operated by a medical or educational institution, when not located on the same lot as such institution, which shall meet the applicable provisions of Section 304.5 of this Code concerning institutional master plans. The density limitations for all group housing described in this subsection <u>located in a C-1, C-2, C-M, M-1 or M-2 District where group housing is not otherwise prohibited</u> shall ((be based in this subsection shall be based upon the density limitations for group housing in the nearest R District, following the same rules as those set forth in Section 215(a) of this Code for dwelling unit densities in C and M Districts)) <u>in no case be less than for an RM-4 District and there shall be no maximum density limitation in a C-3 District</u> |

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| C-1 | C-2 | C-3-O | C-3-R | C-3-G | C-3-S | C-M | M-1 | M-2 | |
|-----|-----|-------|-------|-------|-------|-----|-----|-----|--|
| | | | | | | | | | (b) Hotel, inn or hostel containing rooms or suites of rooms, none with individual cooking facilities, which are offered for compensation and are primarily for the accommodation of transient overnight guests. A hotel, inn or hostel shall not include a motel as described in Subsection 216(c) below: |
| C | C | C | C | C | C | C | C | C | (i) 200 rooms or less; |
| C | C | C | C | C | C | C | C | C | (ii) More than 200 rooms |
| C | NA | | NA | NA | NA | NA | NA | NA | (c) Motel, including an auto court, motor lodge, tourist court or other facility similarly identified, containing rooms or suites of rooms, none with individual cooking facilities, which are offered for compensation and are primarily for the accommodation of transient guests traveling by automobile, and where each sleeping unit is independently accessible from the outside; provided, that the entrance to such motel is within 200 feet of and immediately accessible from a major thoroughfare as designated in the Master Plan. |
| | C | | | C | C | C | C | C | (d) Motel, as described in Subsection 216(c) above but without restriction as to location of its entrance.) |

Section 5: The San Francisco Planning Code is hereby amended by amending Section 309 to read:
SEC. 309. PERMIT REVIEW IN C-3 DISTRICTS.

SUPERVISOR LENO, DALY
BOARD OF SUPERVISORS

1 The provisions and procedures set forth in this Section shall govern the review of
2 project authorization and building and site permit applications for the construction or
3 substantial alteration of structures in C-3 Districts, the granting of exceptions to certain
4 requirements of this Code where the provisions of this Section are invoked, the approval of
5 open space provided in compliance with Section 138, and the approval of streetscape
6 improvements in compliance with Section 138.1. The categories of alterations deemed to be
7 substantial shall be established by the City Planning Commission after a public hearing.
8 When any action authorized by this Section is taken, any determination with respect to the
9 proposed project required or authorized pursuant to CEQA may also be considered. This
10 Section shall not require additional review in connection with a site or building permit
11 application if review hereunder was completed with respect to the same proposed structure or
12 alteration in connection with a project authorization application pursuant to Section 322.

13 (a) Exceptions. Exceptions to the following provisions of this Code may be granted
14 as provided in the code sections referred to below:

15 (1) Exceptions to the setback and rear yard requirements as permitted in Sections
16 132.1 and 134(d);

17 (2) Exceptions to the ground-level wind current requirements as permitted in
18 Section 148;

19 (3) Exceptions to the sunlight to public sidewalk requirement as permitted in Section
20 146;

21 (4) Exceptions to the requirement of independently accessible parking spaces as
22 permitted in Section 155(c);

23 (5) Exceptions to the freight loading and service vehicle space requirements as
24 permitted in Section 161(h);

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1 (6) Exceptions to the off-street tour bus loading space requirements as permitted in
2 Section 162;

3 (7) Exceptions to the height limits for vertical extensions as permitted in Section
4 260(b)(1)(G) and for upper tower extensions as permitted in Section 263.7;

5 (8) Exceptions to the height limits in the 80-130F and 80-130X Height and Bulk
6 Districts as permitted in Section 263.6 and in the 200-400S Height and Bulk District as
7 permitted in Section 263.8;

8 (9) Exceptions to the bulk requirements as permitted in Sections 270 and 272.
9 A project applicant seeking an exception shall file an application on a form provided by the
10 Zoning Administrator.

11 (b) Additional Requirements. In addition to the requirements set forth in this Code,
12 additional requirements and limitations (hereafter referred to as modifications) may be
13 imposed on the following aspects of a proposed project, through the imposition of conditions,
14 in order to achieve the objectives and policies of the Master Plan or the purposes of this
15 Code:

16 (1) Building siting, orientation, massing and facade treatment, including proportion,
17 scale, setbacks, materials, cornice, parapet and fenestration treatment, and design of building
18 tops;

19 (2) Aspects of the project affecting views and view corridors, shadowing of
20 sidewalks and open spaces, openness of the street to the sky, ground-level wind current, and
21 maintenance of predominant streetwalls in the immediate vicinity;

22 (3) Aspects of the project affecting parking, traffic circulation and transit operation
23 and loading points;

24 (4) Aspects of the project affecting its energy consumption;

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1 (5) Aspects of the project related to pedestrian activity, such as placement of
2 entrances, street scale, visual richness, location of retail uses, and pedestrian circulation, and
3 location and design of open space features;

4 (6) Aspects of the project affecting public spaces adjacent to the project, such as
5 the location and type of street trees and landscaping, sidewalk paving material, and the
6 design and location of street furniture as required by Section 138.1;

7 (7) Aspects of the project relating to quality of the living environment of residential
8 units, including housing unit size and the provisions of open space for residents;

9 (8) Aspects of the design of the project which have significant adverse
10 environmental consequences;

11 (9) Aspects of the project that affect its compliance with the provisions of Sections
12 1109(c), 1111.2(c), 1111.6(c), and 1113 regarding new construction and alterations in
13 conservation districts;

14 (10) Aspects of the project that affect the integrity of adjacent Significant or Contributory
15 Buildings.

16 ~~(10)~~(11) Other aspects of the project for which modifications are justified because
17 of its unique or unusual location, environment, topography or other circumstances.

18 (c) Notice of Application for Building or Site Permit. After receipt of an application
19 for a project authorization or building or site permit for new construction or substantial
20 alteration of a structure in a C-3 District, the Zoning Administrator shall mail notice of the
21 application to all owners of property immediately adjacent to the property that is the subject of
22 the application, using for this purpose the names and addresses as shown on the citywide
23 Assessment Roll in the Assessor's Office, and, in addition, shall publish notice at least once in
24 an official newspaper of general circulation.

1 (d) Notice of Proposed Approval. If, after a review of a project authorization or
2 permit application, the Zoning Administrator determines that an application complies with the
3 provisions of this Code and that no exception is sought as provided in Subsection (a), and the
4 Director of Planning determines that no additional modifications are warranted as provided in
5 Subsection (b), and that the open space requirements of Section 138 and the streetscape
6 requirements of Section 138.1 have been complied with, the Zoning Administrator shall
7 provide notice of the proposed approval of the application in the manner set forth in
8 Subsection (c) and, in addition, to any person who has requested such notice in writing. If no
9 request for City Planning Commission review pursuant to Subsection (g) is made within 10
10 days of such notice, the Zoning Administrator shall approve the application.

11 (e) Hearing and Determination of Applications for Exceptions.

12 (1) Hearing. The City Planning Commission shall hold a public hearing on an
13 application for an exception as provided in Subsection (a).

14 (2) Notice of Hearing. Notice of such hearing shall be mailed not less than 10 days
15 prior to the date of the hearing to the project applicant, to property owners within 300 feet of
16 the project that is the subject of the application, using for this purpose the names and
17 addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any
18 person who has requested such notice. The notice shall state that the written
19 recommendation of the Director of Planning regarding the request for an exception is
20 available for public review at the office of the Department of City Planning.

21 (3) Decision and Appeal. The Commission may, after public hearing and after
22 making appropriate findings, approve, disapprove or approve subject to conditions, the
23 application for an exception. The decision of the City Planning Commission may be appealed
24 to the Board of Permit Appeals by any person aggrieved within 15 days after the date of the
25 decision by filing a written notice of appeal with that Body, setting forth wherein it is alleged

1 that there was an error in the interpretation of the provisions of this Code or abuse of
2 discretion on the part of the City Planning Commission.

3 (4) Decision on Appeal. Upon the hearing of an appeal, the Board of Permit
4 Appeals may, subject to the same limitations as are placed on the City Planning Commission
5 by Charter or by this Code, approve, disapprove or modify the decision appealed from. If the
6 determination of the Board differs from that of the Commission it shall, in a written decision,
7 specify the error in interpretation or abuse of discretion on the part of the Commission and
8 shall specify in the findings, as part of the written decision, the facts relied upon in arriving at
9 its determination.

10 (f) Director's Recommendations.

11 (1) Recommendations. If the Director of Planning determines that modifications
12 through the imposition of conditions are warranted as provided in Subsection (b), or that the
13 open space requirements of Section 138 or the streetscape requirements of Section 138.1
14 have not been complied with, the matter shall be scheduled for hearing before the City
15 Planning Commission; provided, however, that if the Director determines that Section 138 and
16 Section 138.1 have been complied with and the applicant does not oppose the imposition of
17 conditions which the Director has determined are warranted, the applicant may waive the right
18 to a hearing before the Commission in writing and agree to the conditions, in which case the
19 Zoning Administrator shall provide notice of such fact according to the notice given for
20 applications governed by Subsection (d), so that any person seeking additional modifications
21 or objecting to the Section 138 or Section 138.1 determination may make such a request as
22 provided in Subsection (g). If no request is made within 10 days of such notice, the Zoning
23 Administrator shall approve the application subject to the conditions.

24 (2) Notice. Notice of any meeting of the City Planning Commission pursuant to this
25 subsection shall be mailed to the project applicant, to property owners immediately adjacent

1 to the site of the application using for this purpose the names and addresses as shown on the
2 citywide Assessment Roll in the Assessor's Office, and to any person who has requested
3 such notice. The notice shall state that the Director's written recommendation is available for
4 public review at the Department of City Planning.

5 (3) Commission Action. The City Planning Commission may, after public hearing
6 and after making appropriate findings, approve, disapprove or approve subject to conditions
7 applications considered pursuant to Subsection (b) or for compliance with Section 138 or
8 Section 138.1.

9 (g) City Planning Commission Review Upon Request.

10 (1) Requests. Within 10 days after notice of the proposed approval has been given,
11 as provided in Subsection (d), any person may request in writing that the City Planning
12 Commission impose additional modifications on the project as provided in Subsection (b) or
13 consider the application for compliance with Section 138 or Section 138.1. Said written
14 request shall state why additional modifications should be imposed notwithstanding its
15 compliance with the requirements of this Code and shall identify the policies or objectives that
16 would be promoted by the imposition of conditions, or shall state why Section 138 has not
17 been complied with.

18 (2) Commission Consideration. The City Planning Commission shall consider at a
19 public meeting each written request for additional modifications and for consideration of
20 Section 138 and Section 138.1 compliance and may, by majority vote, direct that a hearing be
21 conducted to consider such modifications or compliance, which hearing may be conducted at
22 the same meeting that the written request is considered and decided. Notice of such meeting
23 shall be mailed to the project applicant, to property owners immediately adjacent to the site of
24 the application using for this purpose the names and addresses as shown on the citywide
25 Assessment Roll in the Assessor's Office, to any person who has requested such notice, and

1 to any person who has submitted a request for additional requirements. In determining
2 whether to conduct such a hearing, the Commission shall determine whether, based upon a
3 review of the project, reasonable grounds exist justifying a public hearing in order to consider
4 the proposed additional modifications, Section 138 compliance or Section 138.1 compliance.

5 (3) Commission Action. If the Commission determines to conduct a hearing to
6 consider the imposition of additional modifications or Section 138 compliance, it may, after
7 such hearing and after making appropriate findings, approve, disapprove, or approve subject
8 to conditions the building or site permit or project authorization application. If the Commission
9 determines not to conduct a hearing, the Zoning Administrator shall approve the application
10 subject to any conditions imposed by the Director of Planning to which the applicant has
11 consented.

12 (h) Hearings on Projects Over 50,000 Square Feet of Gross Floor Area or Over 75
13 Feet in Height. The City Planning Commission shall hold a public hearing not otherwise
14 required by this Section on all building and site permit and project authorization applications
15 for projects which will result in a net addition of more than 50,000 square feet of gross floor
16 area of space or which will result in a building that is greater than 75 feet in height. Notice of
17 such hearing shall be mailed not less than 10 days prior to the date of the hearing to the
18 project applicant, to property owners immediately adjacent to the site of the application using
19 for this purpose the names and addresses as shown on the citywide Assessment Roll in the
20 Assessor's Office, and to any person who has requested such notice.

21 (i) Imposition of Conditions, General. If, pursuant to the provisions of this Section,
22 the City Planning Commission determines that conditions should be imposed on the approval
23 of a building or site permit application, project authorization application or an application for
24 exceptions and the applicant agrees to comply, the Commission may approve the application
25

1 subject to those conditions, and if the applicant refuses to so agree, the Commission may
2 disapprove the application.

3 (j) Change of Conditions. Authorization of a change in any condition previously
4 imposed pursuant to this Section shall require an application for a change in conditions, which
5 application shall be subject to the procedures set forth in this Section.

6 Section 6: The San Francisco Planning Code is hereby amended by amending Section
7 1112.2 to read:

8 SEC. 1112.2. DISPOSITION OF APPLICATIONS TO DEMOLISH CONTRIBUTORY
9 BUILDINGS AND UNRATED BUILDINGS IN CONSERVATION DISTRICTS.

10 (a) The Zoning Administrator shall determine, within five days of acceptance of a
11 complete application, the designation of the building and, with respect to Contributory
12 Buildings, whether any TDR have been transferred from the lots of such buildings.

13 (b) If the Zoning Administrator determines that TDR have been transferred from the
14 lot of a Contributory Building, or that the gross floor area of a structure or structures on a
15 development site that includes the lot of a Contributory Building will exceed the base floor area ratio
16 limit of the site without the transfer of TDR, the application for demolition of that building shall be
17 reviewed and acted upon as if it applied to a Significant Building.

18 (c) The Zoning Administrator shall approve any application for demolition of a
19 Contributory Building in a Conservation District from which no TDR have been transferred, or
20 an Unrated Building located in a Conservation District, if a building or site permit has been
21 lawfully issued for a replacement structure on the site, in compliance with Section 1113. The
22 Zoning Administrator shall approve an application for demolition of a Significant Building -
23 Category II if a building or site permit has been lawfully issued for an alteration or replacement
24 structure on the portion of the site which would be affected by the demolition, in compliance
25 with Section 1111.6(b)(7). The Zoning Administrator shall disapprove any application for a

1 demolition permit where the foregoing requirement has not been met; provided, however, that
2 the Zoning Administrator shall approve any otherwise satisfactory application for such a
3 permit notwithstanding the fact that no permit has been obtained for a replacement structure if
4 the standards of Section 1112.7 for allowing demolition of a Significant Building are met.

5 (d) The Zoning Administrator shall approve applications to permit demolition of a
6 Contributory Building - Category III from which no TDR have been transferred only if a
7 building or site permit for a replacement building on the same site has been approved, and it
8 has been found, pursuant to review under the procedural provisions of Section 309, that the
9 proposed replacement will not adversely affect the character, scale or design qualities of the
10 general area in which it is located, either by reason of the quality of the proposed design or by
11 virtue of the relation of the replacement structure or structures to their setting. Notwithstanding
12 the preceding sentence, the Zoning Administrator shall approve any such demolition permit
13 application if the standards of Section 1112.7 for allowing demolition of a Significant Building
14 are met.

15

16 APPROVED AS TO FORM:

17 DENNIS J. HERRERA, City Attorney

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19 By:

SUSAN CLEVELAND-KNOWLES
Deputy City Attorney

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